



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,797	02/06/2002	Satoshi Oshima	62807-032	4486

7590 05/24/2004  
MCDERMOTT, WILL & EMERY  
600 13th Street, N.W.  
Washington, DC 20005-3096

EXAMINER

WOO, ISAAC M

ART UNIT	PAPER NUMBER
----------	--------------

2172

DATE MAILED: 05/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

NT

<b>Office Action Summary</b>	<b>Application No.</b> 10/066,797	<b>Applicant(s)</b> OSHIMA ET AL.	
	<b>Examiner</b> Isaac M Woo	<b>Art Unit</b> 2172	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 February 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over McGill, III et al (U.S. Patent No. 5,467,573, hereinafter, "McGill").

With respect to claims 1 and 6-7, McGill discloses, file system protection method and system used in a computer having a volatile storage and a non-volatile storage, and means for simultaneously executing a plurality of operating systems (col. 2, lines 18-67 to col. 3, lines 1-5), copying by a first OS (fig. 3, col. 5, lines 17-65), files to be used by a second OS (col. 4, lines 23-67, disclosed system of McGill for restoring any operating system using backup operating system related files, thus, backup OS related files can be used for different or desired OS using boot file, col. 2, lines 40-67, col. 3, lines 41-67 to col. 4, lines 1-53) and stored on the non-volatile storage (16, fig. 2, col. 4, lines 23-67), onto the volatile storage, see (fig. 1, fig. 2, col. 3, lines 41-67 to col. 4, lines 1-67); and using the copied files to execute the second OS (col. 3, lines 41-67 to col. 4, lines

Art Unit: 2172

1-67, booting with backup disk, fig. 4, col. 6, lines 1-67 to col. 7, lines 1-57). McGill does not explicitly disclose, starting an OS from a file system in a predetermined state each time the system is restarted. However, system back up tape is used for starting or booting desired operating system on the computer, see (fig. 6A-B, fig. 7, col. 7, lines 6-67 to col. 8, lines 1-45). Therefore, it would have been obvious to a person having ordinary skill in the art at the time of the invention was made to include starting an OS from a file system in a predetermined state each time the system is restarted in the system of the McGill. Because the boot disk includes files that specify operating system and related files to provide computer restarting with specific operating system.

With respect to claim 2, McGill discloses, OS not having a non-volatile storage stores a file by communicating with an OS having a volatile storage, see (col. 3, lines 41-67 to col. 4, lines 1-67).

With respect to claim 3, McGill discloses, second OS of the computer has a communication device, and when an OS on an external computer having a communication device and a non volatile storage exchange a file with the second OS via the communication devices, the second OS stores the file on the non-volatile storage of the external computer, see (col. 3, lines 41-67 to col. 4, lines 1-67).

With respect to claim 4, McGill discloses, first OS and the second OS have communication devices which are connected to each other by a communication line,

Art Unit: 2172

and when exchanging a file via the communication devices, the second OS stores the file on the non-volatile storage of the first OS, see (col. 3, lines 41-67 to col. 4, lines 1-67).

With respect to claim 5, McGill discloses, first OS and said second OS exchange a file by communication via said means for simultaneously executing a plurality OS stores the file on said non-volatile first OS, see (col. 3, lines 41-67 to col. 4, lines 1-67).

### ***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lipe (U.S. Patent No. 5,548,759) discloses the system for multiple files that are combined into a single file in new executable format to operate a hardware or software device, such as a peripheral device, while retaining compatibility with an operating system. The resources portion of the single file is extended to put one or more non-executable file and executable file in the single file. A header includes a resources table that identifies the location of the non-executable files and executable files within the resources section. The executable file is accessed and loaded by the operating system after the peripheral device is connected to the computer, and the executable file is used to operate the peripheral device.


**Contact Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Isaac M Woo whose telephone number is (703) 305-0081. The examiner can normally be reached on 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E Breene can be reached on (703) 305-9790. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

IMW  
May 06, 2004

  
SHAHID ALAM  
PRIMARY EXAMINER